

Executive Summary – Enforcement Matter – Case No. 47047
Bayer MaterialScience LLC
RN100209931
Docket No. 2013-1157-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Bayer Material Science Baytown Plant, 8500 West Bay Road, Baytown, Chambers County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 6, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,262

Amount Deferred for Expedited Settlement: \$4,252

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,505

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$8,505

Name of SEP: Houston Regional Monitoring Corporation

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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RN100209931
Docket No. 2013-1157-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: February 25, 2013
Date(s) of NOE(s): April 23, 2013

Violation Information

Failed to route all vent gas streams to the oxidizer or incinerator to reduce total organic compound emissions by 98 weight-percent or to a total organic compound concentration of 20 parts per million by volume on a dry basis corrected to 3% oxygen. Specifically, Respondent failed to prevent uncontrolled emissions from the pressure relief device when switching between the two Hydrochloric Acid Unit Incinerators (Emission Point Nos. FV11514600 and FV11621600) occurring between October 26, 2011 and July 16, 2012, resulting in the release of 255.66 pounds ("lbs") of carbon monoxide and 7.77 lbs of volatile organic compounds from the Methylene Diphenyl Diisocyanate Train [30 TEX. ADMIN. CODE §§ 101.20(2), 115.121(a)(2), 115.122(a)(2), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.113(a)(2), Federal Operating Permit No. 02101, Special Terms and Conditions Nos. 1.A. and 13., New Source Review ("NSR") Permit No. 2005, Special Conditions ("SC") No. 5 (2006 Revision), and NSR Permit No. 2005, SC No. 6 (2012 Revision)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Plant in order to prevent uncontrolled emissions from the Hydrochloric Acid Unit Incinerator pressure relief device:

- a. By March 31, 2013, improved the automation logic for situations when the incinerator is required to switch to the backup incinerator;
- b. By June 30, 2013, improved the oxygen controller by adding an alarm if the oxygen controller is set to manual when the incinerator is online; and
- c. By September 30, 2013, improved the communication reliability of the field bus interlocks to the incinerators.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565
Respondent: Rodderick Herrick, Vice President & Site Manager, Bayer
MaterialScience LLC, 8500 West Bay Road, Baytown, Texas 77523
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1157-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Bayer MaterialScience LLC
Penalty Amount:	Seventeen Thousand Ten Dollars (\$17,010)
SEP Offset Amount:	Eight Thousand Five Hundred Five Dollars (\$8,505)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator: **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the HRM 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project. Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compounds, nitrogen oxides, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used to provide critical information evaluating the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information essential to furthering overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution, with a copy of the Agreed Order to:

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter

Bayer MaterialScience LLC
Agreed Order - Attachment A

indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting as described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of an SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	29-Apr-2013	Screening	5-Jun-2013	EPA Due	
	PCW	8-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Bayer MaterialScience LLC
Reg. Ent. Ref. No.	RN100209931
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47047	No. of Violations	1
Docket No.	2013-1157-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **89.0%** Enhancement **Subtotals 2, 3, & 7** **\$10,012**

Notes: Enhancement for three orders with denial of liability, one order without denial of liability, and one NOV with same/similar violations. Reduction for one Notice of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$193
Approx. Cost of Compliance \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$21,262**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$21,262**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$21,262**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,252**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$17,010**

Screening Date 5-Jun-2013

Docket No. 2013-1157-AIR-E

PCW

Respondent Bayer MaterialScience LLC

Policy Revision 3 (September 2011)

Case ID No. 47047

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100209931

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 89%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three orders with denial of liability, one order without denial of liability, and one NOV with same/similar violations. Reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 89%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 89%

Screening Date 5-Jun-2013

Docket No. 2013-1157-AIR-E

PCW

Respondent Bayer MaterialScience LLC

Policy Revision 3 (September 2011)

Case ID No. 47047

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100209931

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(2), 115.121(a)(2), 115.122(a)(2), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 63.113(a)(2), Federal Operating Permit No. 02101, Special Terms and Conditions Nos. 1.A. and 13., New Source Review ("NSR") Permit No. 2005, Special Conditions ("SC") No. 5 (2006 Revision), and NSR Permit No. 2005, SC No. 6 (2012 Revision)

Violation Description

Failed to route all vent gas streams to the oxidizer or incinerator to reduce total organic compound emissions by 98 weight-percent or to a total organic compound concentration of 20 parts per million by volume on a dry basis corrected to 3% oxygen. Specifically, the Respondent failed to prevent uncontrolled emissions from the pressure relief device when switching between the two Hydrochloric ("HCl") Acid Unit Incinerators (Emission Point Nos. FV11514600 and FV11621600) occurring between October 26, 2011 and July 16, 2012, resulting in the release of 255.66 pounds ("lbs") of carbon monoxide and 7.77 lbs of volatile organic compounds from the Methylene Diphenyl Diisocyanate Train.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

264 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended from the violation start date on October 26, 2011 to the violation end date on July 16, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$193

Violation Final Penalty Total \$21,263

This violation Final Assessed Penalty (adjusted for limits) \$21,263

Economic Benefit Worksheet

Respondent Bayer MaterialScience LLC
Case ID No. 47047
Reg. Ent. Reference No. RN100209931
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	26-Oct-2011	30-Sep-2013	1.93	\$193	n/a	\$193

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent uncontrolled emissions from the HCl Incinerator pressure relief device. The Date Required is the violation start date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$193

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603578188, RN100209931, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603578188, Bayer MaterialScience LLC **Classification:** SATISFACTORY **Rating:** 1.25

Regulated Entity: RN100209931, BAYER MATERIAL SCIENCE BAYTOWN PLANT **Classification:** SATISFACTORY **Rating:** 1.25

Complexity Points: 44 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 8500 WEST BAY ROAD, BAYTOWN, TX 77523-8727, CHAMBERS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER CI0016S

AIR OPERATING PERMITS PERMIT 2100

AIR OPERATING PERMITS PERMIT 2102

AIR OPERATING PERMITS PERMIT 2104

POLLUTION PREVENTION PLANNING ID NUMBER

PO0427

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30603

WASTEWATER PERMIT WQ0001499000

AIR NEW SOURCE PERMITS PERMIT 32678

AIR NEW SOURCE PERMITS PERMIT 32835

AIR NEW SOURCE PERMITS REGISTRATION 32469

AIR NEW SOURCE PERMITS PERMIT 34017

AIR NEW SOURCE PERMITS PERMIT 35148

AIR NEW SOURCE PERMITS REGISTRATION 36361

AIR NEW SOURCE PERMITS REGISTRATION 38737

AIR NEW SOURCE PERMITS REGISTRATION 39205

AIR NEW SOURCE PERMITS REGISTRATION 39305

AIR NEW SOURCE PERMITS REGISTRATION 41110

AIR NEW SOURCE PERMITS REGISTRATION 43879

AIR NEW SOURCE PERMITS REGISTRATION 44965

AIR NEW SOURCE PERMITS REGISTRATION 46547

AIR NEW SOURCE PERMITS REGISTRATION 47877

AIR NEW SOURCE PERMITS ACCOUNT NUMBER CI0016S

AIR NEW SOURCE PERMITS PERMIT 1978A

AIR NEW SOURCE PERMITS PERMIT 2006A

AIR NEW SOURCE PERMITS REGISTRATION 2033E

AIR NEW SOURCE PERMITS PERMIT 2141

AIR NEW SOURCE PERMITS PERMIT 7870

AIR NEW SOURCE PERMITS PERMIT 10789

AIR NEW SOURCE PERMITS REGISTRATION 11261

AIR NEW SOURCE PERMITS REGISTRATION 13916

AIR NEW SOURCE PERMITS REGISTRATION 14068

AIR NEW SOURCE PERMITS REGISTRATION 15808

AIR NEW SOURCE PERMITS PERMIT 18033

AIR NEW SOURCE PERMITS PERMIT 22197

AIR NEW SOURCE PERMITS REGISTRATION 31683

AIR NEW SOURCE PERMITS REGISTRATION 53004

AIR OPERATING PERMITS PERMIT 1390

AIR OPERATING PERMITS PERMIT 2101

AIR OPERATING PERMITS PERMIT 2103

AIR OPERATING PERMITS PERMIT 2529

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50173

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD058260977

WASTEWATER EPA ID TX0002798

AIR NEW SOURCE PERMITS PERMIT 32679

AIR NEW SOURCE PERMITS REGISTRATION 32017

AIR NEW SOURCE PERMITS PERMIT 33665

AIR NEW SOURCE PERMITS REGISTRATION 33931

AIR NEW SOURCE PERMITS REGISTRATION 35748

AIR NEW SOURCE PERMITS REGISTRATION 36819

AIR NEW SOURCE PERMITS PERMIT 39943

AIR NEW SOURCE PERMITS REGISTRATION 39221

AIR NEW SOURCE PERMITS REGISTRATION 40214

AIR NEW SOURCE PERMITS REGISTRATION 42933

AIR NEW SOURCE PERMITS REGISTRATION 44256

AIR NEW SOURCE PERMITS REGISTRATION 46087

AIR NEW SOURCE PERMITS REGISTRATION 47933

AIR NEW SOURCE PERMITS REGISTRATION 49695

AIR NEW SOURCE PERMITS REGISTRATION 15373

AIR NEW SOURCE PERMITS PERMIT 2005

AIR NEW SOURCE PERMITS PERMIT 2006B

AIR NEW SOURCE PERMITS PERMIT 2035A

AIR NEW SOURCE PERMITS PERMIT 7503

AIR NEW SOURCE PERMITS PERMIT 7997

AIR NEW SOURCE PERMITS REGISTRATION 10813

AIR NEW SOURCE PERMITS REGISTRATION 11635

AIR NEW SOURCE PERMITS REGISTRATION 13917

AIR NEW SOURCE PERMITS REGISTRATION 14776

AIR NEW SOURCE PERMITS REGISTRATION 17110

AIR NEW SOURCE PERMITS REGISTRATION 7877A

AIR NEW SOURCE PERMITS REGISTRATION 25130

AIR NEW SOURCE PERMITS REGISTRATION 52342

AIR NEW SOURCE PERMITS REGISTRATION 52109

AIR NEW SOURCE PERMITS REGISTRATION 55162
AIR NEW SOURCE PERMITS REGISTRATION 54702
AIR NEW SOURCE PERMITS REGISTRATION 70871
AIR NEW SOURCE PERMITS REGISTRATION 54695
AIR NEW SOURCE PERMITS REGISTRATION 52086
AIR NEW SOURCE PERMITS REGISTRATION 84777
AIR NEW SOURCE PERMITS REGISTRATION 84249
AIR NEW SOURCE PERMITS REGISTRATION 85907
AIR NEW SOURCE PERMITS REGISTRATION 85149
AIR NEW SOURCE PERMITS REGISTRATION 87521
AIR NEW SOURCE PERMITS REGISTRATION 92444
AIR NEW SOURCE PERMITS REGISTRATION 93940
AIR NEW SOURCE PERMITS REGISTRATION 93714
AIR NEW SOURCE PERMITS REGISTRATION 94889
AIR NEW SOURCE PERMITS REGISTRATION 101153
AIR NEW SOURCE PERMITS REGISTRATION 98065
AIR NEW SOURCE PERMITS REGISTRATION 101193
AIR NEW SOURCE PERMITS REGISTRATION 96650
AIR NEW SOURCE PERMITS REGISTRATION 102179
AIR NEW SOURCE PERMITS REGISTRATION 102766
AIR NEW SOURCE PERMITS REGISTRATION 102735
AIR NEW SOURCE PERMITS REGISTRATION 101921
AIR NEW SOURCE PERMITS REGISTRATION 102156
AIR NEW SOURCE PERMITS REGISTRATION 102764
AIR NEW SOURCE PERMITS REGISTRATION 102780
AIR NEW SOURCE PERMITS REGISTRATION 102743
AIR NEW SOURCE PERMITS REGISTRATION 102176
AIR NEW SOURCE PERMITS REGISTRATION 102174
AIR NEW SOURCE PERMITS REGISTRATION 101924
AIR NEW SOURCE PERMITS REGISTRATION 101920
AIR NEW SOURCE PERMITS REGISTRATION 102768
AIR NEW SOURCE PERMITS REGISTRATION 102158
AIR NEW SOURCE PERMITS REGISTRATION 102736
AIR NEW SOURCE PERMITS REGISTRATION 102737
AIR NEW SOURCE PERMITS REGISTRATION 102162
AIR NEW SOURCE PERMITS REGISTRATION 102153
AIR NEW SOURCE PERMITS REGISTRATION 102767
AIR NEW SOURCE PERMITS REGISTRATION 105385
AIR NEW SOURCE PERMITS REGISTRATION 105413
AIR NEW SOURCE PERMITS REGISTRATION 105392
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 75002
AIR EMISSIONS INVENTORY ACCOUNT NUMBER CI0016S

AIR NEW SOURCE PERMITS REGISTRATION 75401
AIR NEW SOURCE PERMITS AFS NUM 4807100009
AIR NEW SOURCE PERMITS REGISTRATION 85625
AIR NEW SOURCE PERMITS REGISTRATION 54700
AIR NEW SOURCE PERMITS REGISTRATION 79855
AIR NEW SOURCE PERMITS REGISTRATION 90373
AIR NEW SOURCE PERMITS REGISTRATION 88112
AIR NEW SOURCE PERMITS REGISTRATION 91451
AIR NEW SOURCE PERMITS REGISTRATION 85448
AIR NEW SOURCE PERMITS REGISTRATION 92216
AIR NEW SOURCE PERMITS REGISTRATION 92527
AIR NEW SOURCE PERMITS REGISTRATION 93699
AIR NEW SOURCE PERMITS REGISTRATION 94104
AIR NEW SOURCE PERMITS REGISTRATION 100821
AIR NEW SOURCE PERMITS REGISTRATION 98481
AIR NEW SOURCE PERMITS REGISTRATION 98012
AIR NEW SOURCE PERMITS REGISTRATION 99904
AIR NEW SOURCE PERMITS REGISTRATION 102772
AIR NEW SOURCE PERMITS REGISTRATION 102770
AIR NEW SOURCE PERMITS REGISTRATION 101928
AIR NEW SOURCE PERMITS REGISTRATION 101915
AIR NEW SOURCE PERMITS REGISTRATION 101923
AIR NEW SOURCE PERMITS REGISTRATION 101929
AIR NEW SOURCE PERMITS REGISTRATION 102157
AIR NEW SOURCE PERMITS REGISTRATION 101922
AIR NEW SOURCE PERMITS REGISTRATION 102754
AIR NEW SOURCE PERMITS REGISTRATION 102732
AIR NEW SOURCE PERMITS REGISTRATION 102777
AIR NEW SOURCE PERMITS REGISTRATION 102178
AIR NEW SOURCE PERMITS REGISTRATION 101925
AIR NEW SOURCE PERMITS REGISTRATION 102155
AIR NEW SOURCE PERMITS REGISTRATION 102734
AIR NEW SOURCE PERMITS REGISTRATION 102769
AIR NEW SOURCE PERMITS REGISTRATION 102745
AIR NEW SOURCE PERMITS REGISTRATION 102181
AIR NEW SOURCE PERMITS REGISTRATION 102180
AIR NEW SOURCE PERMITS REGISTRATION 102733
AIR NEW SOURCE PERMITS REGISTRATION 108482
AIR NEW SOURCE PERMITS REGISTRATION 109438
AIR NEW SOURCE PERMITS REGISTRATION 104837
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 30603

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 05, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 05, 2008 to June 05, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Podlipny

Phone: (512) 239-2603

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |

5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 04/20/2009 ADMINORDER 2008-1546-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:OP O-02100, Special Condition 7 OP
P 2035A, Special Condition 7C PA
Description: Failed to maintain incinerator (MP-073) exit temperature at or above 1,600 degrees Fahrenheit with a retention time of one second or greater.
- 2 Effective Date: 04/25/2010 ADMINORDER 2009-1666-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:Special Condition #1 PERMIT
Description: Failure to prevent unauthorized emissions during an emissions event. Specifically, Bayer failed to prevent unauthorized emissions from waste gas vent stack FV11602000.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit the Final Report for a reportable emissions event within 14 days of the end of the event.
- 3 Effective Date: 04/18/2011 ADMINORDER 2010-1148-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)
Description: Failed to obtain authorization for the operation of the CAS.
Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:FOP No. 02100 OP
Description: Failed to report all deviations on semi-annual deviation reports dated April 29, 2009 and October 30, 2009.
- 4 Effective Date: 07/08/2012 ADMINORDER 2011-1191-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.335(a)(1)
30 TAC Chapter 117, SubChapter B 117.335(e)
30 TAC Chapter 117, SubChapter G 117.8000(a)
30 TAC Chapter 117, SubChapter H 117.9020(2)(C)(i)
5C THSC Chapter 382 382.085(b)
Description: Failed to conduct a stack test on Hot Oil Heater (Emission Point Number FV13544900) prior to the March 31, 2007 deadline. Specifically, the stack test was not conducted until December 9-10, 2010.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 June 16, 2010 (827079)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 12/10/2012 (1034844)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) Special Condition 1 PERMIT		
Description:	Failure to prevent the unauthorized emissions of NOx due to faulty burner fire-eye.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to submit an initial notification for a reportable emissions event no later than 24 hours after its discovery.		

F. Environmental audits:

Notice of Intent Date: 06/08/2009 (759109)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAYER MATERIALSCIENCE LLC
RN100209931**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1157-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bayer MaterialScience LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 8500 West Bay Road in Baytown, Chambers County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 28, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-One Thousand Two Hundred Sixty-Two Dollars (\$21,262) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Five Hundred Five Dollars (\$8,505) of the administrative penalty and Four Thousand Two

Hundred Fifty-Two Dollars (\$4,252) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eight Thousand Five Hundred Five Dollars (\$8,505) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant in order to prevent uncontrolled emissions from the Hydrochloric Acid Unit Incinerator pressure relief device:
 - a. By March 31, 2013, improved the automation logic for situations when the incinerator is required to switch to the backup incinerator;
 - b. By June 30, 2013, improved the oxygen controller by adding an alarm if the oxygen controller is set to manual when the incinerator is online; and
 - c. By September 30, 2013, improved the communication reliability of the field bus interlocks to the incinerators.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to route all vent gas streams to the oxidizer or incinerator to reduce total organic compound emissions by 98 weight-percent or to a total organic compound concentration of 20 parts per million by volume on a dry basis corrected to 3% oxygen, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 115.121(a)(2), 115.122(a)(2), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 63.113(a)(2), Federal Operating Permit No. O2101, Special Terms and Conditions Nos. 1.A. and 13., New Source Review ("NSR") Permit No. 2005, Special Conditions ("SC") No. 5 (2006 Revision), and NSR Permit No. 2005, SC No. 6 (2012 Revision), as documented during an investigation conducted on February 25, 2013 to March 11, 2013. Specifically, the Respondent failed to prevent uncontrolled emissions from the pressure relief device when switching between the two Hydrochloric Acid Unit Incinerators (Emission Point Nos. FV11514600 and FV11621600) occurring between October 26, 2011 and July 16, 2012, resulting in the release of 255.66 pounds ("lbs") of carbon monoxide and 7.77 lbs of volatile organic compounds from the Methylene Diphenyl Diisocyanate Train.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bayer MaterialScience LLC, Docket No. 2013-1157-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eight Thousand Five Hundred Five Dollars (\$8,505) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Jesus Miller for Ramiro Garcia
For the Executive Director

1.9.14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

RA Herrick
Signature

10-29-2013
Date

RA HERRICK
Name (Printed or typed)
Authorized Representative of
Bayer MaterialScience LLC

VP & SITE MGR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-1157-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Bayer MaterialScience LLC
Penalty Amount:	Seventeen Thousand Ten Dollars (\$17,010)
SEP Offset Amount:	Eight Thousand Five Hundred Five Dollars (\$8,505)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator: **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the HRM 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project. Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compounds, nitrogen oxides, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used to provide critical information evaluating the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hour ozone National Ambient Air Quality Standards. It also provides a key source of information essential to furthering overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution, with a copy of the Agreed Order to:

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter

Bayer MaterialScience LLC
Agreed Order - Attachment A

indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting as described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of an SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.